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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,184	04/13/2004	J. Clifton Gibson	64743.003	3720
7590 07/17/2007				
James E. Bradley Bracewell & Patterson, LLP P.O. Box 61389 Houston, TX 77208-1389				
			EXAMINER	
			NGUYEN, TUAN N	
			ART UNIT	PAPER NUMBER
			3751	
			MAIL DATE	DELIVERY MODE
			07/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No.	Applicant(s)	
	10/823,184	GIBSON ET AL.	
	Examiner	Art Unit	
	Tuan N. Nguyen	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-36, 38-40 and 42-56 is/are rejected.
- 7) ☒ Claim(s) 37 and 41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the claims have been considered but are found not persuasive as indicated below.

The applicant's argument with respect to the Maxhimer reference appears to be narrower than what being claimed since the Maxhimer reference is being applied to the claims without the wireless.

The applicant's argument with respect to the Cazden reference not including a wave filter timer; however, the examiner has directed applicant's attention to col. 7, lines 26-28 of Cazden to which the examiner is considered as the wave filter timer. With respect to the applicant's argument of the Cazden's processor, the claimed processor fails to set forth any structure to distinguish from the Cazden's processor, which is inherently would exist to process all the signals from the sensors. The tilt as claimed in claim 46 fails to set forth any structure to distinguish from switch (171) of Cazden, which does tilt up and down.

2. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See the recent Supreme Court ruling on the *KSR* case.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 42, 43, 45 and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Maxhimer (US 4,445,238).

Maxhimer discloses an apparatus for controlling water level in a pool, the apparatus comprising: a water level sensor adapted to be immersed in the pool; a processor electrically connected with the sensor that detects low water in the pool; a transmitter electrically connected with the processor for sending a momentary low water signal a housing inherently containing the processor, the transmitter, and a power source for powering the processor and the transmitter; a remote receiver for receiving the signal from the transmitter and turning on a valve to add water to the pool; and an overflow counter (the timer 72, see col. 5, line 48+) in the receiver that turns on for a selected interval when the receiver receives one of the low water signals from the transmitter, the overflow counter adapted to cause the valve to remain on until the overflow counter reaches a selected count to add water to the pool for a preselected time period associated with the selected count after the low water signal has terminated, and adapted to reset the overflow counter prior to reaching the selected count each time that the receiver receives subsequent low water signals from the transmitter. The apparatus

further comprises a power input of the transmitter is connected to an output of the processor so that the transmitter is supplied with power only when the processor directs the transmitter to send the low water signal.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 38-40, 45, 46, 48-50, 52, 53, 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cazden (US 6,276,200).

Cazden discloses an apparatus for controlling water level in a pool, the apparatus comprising: a water level sensor adapted to be immersed in the pool; an inherently obvious processor electrically connected with the sensor to detect a preprogrammed low water in the pool; a wireless transmitter electrically connected with the processor for sending a digitally encoded low water signal a housing containing the processor and the transmitter; a power source for powering the processor and the transmitter; a remote receiver for receiving the signal from the transmitter and turning on a valve to add water to the pool; a wave filter timer (see col. 7, lines 26-28) which obviously with a preprogram within the processor that turns on for a selected interval when the processor detects low water; and the processor further has means for delaying the transmitter from sending the low water signal until the end of the selected interval and for causing the transmitter to send the low water signal at the end of the

selected interval only if the processor continuously detects low water during the entire selected interval; and wherein the low water signal sent by the transmitter is a momentary signal, which will turn off after the pool is filled. The apparatus obviously comprises a power input of the transmitter is connected to an output of the processor so that the transmitter is supplied with power only when the processor directs the transmitter to send the low water signal (see col. 7, lines 30-43). The method as claimed would be inherent during normal use of the Cazden device, wherein the upper switch 171 of Fig. 11 is considered as a tilt switch of claim 46.

Cazden discloses the replacement of the battery (see col. 4, lines 1-8). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Cazden device, a low battery indicator as claimed, which is a well known feature in electronic devices that uses battery.

5. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maxhimer in view of Mogab et al.

Maxhimer discloses the power supply from an AC source; however, Mogab et al. discloses an analogous device as discussed in the previous office action, mailed 7/5/06, that can be utilized with AC source or a battery. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Maxhimer device, a battery source as taught by Mogab et al. as an alternate equivalent power source. The employment of a low battery indicator as claimed, which is a well known feature in electronic devices that uses battery.

6. Claims 32-36, 47 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cazden in view of Martin et al.

Cazden discloses all of the limitation as discussed above except for a tilt switch, attention is directed to the Martin et al. reference which teaches a tilt switch for turning on/off an electronic device upon tilting the device via a toilet seat. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Cazden device, a tilt switch as taught by Martin et al. in order to provide a power switch on the Cazden device so as to avoid inadvertent electric shock.

Allowable Subject Matter

7. Claims 37 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

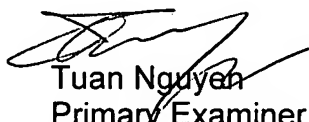
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tuan Nguyen
Primary Examiner
Art Unit 3751

TN